



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2020-0677; FRL- 9276-02-R4]

Air Plan Approval; South Carolina; Catawba Indian Nation Portion of the Charlotte-Gastonia-Rock Hill Area Limited Maintenance Plan for the 1997 8-Hour Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve state implementation plan (SIP) revision submitted by the State of South Carolina, through the Department of Health and Environmental Control (DHEC), via a letter dated July 7, 2020. The SIP revision includes the 1997 8-hour ozone national ambient air quality standards (NAAQS) Limited Maintenance Plan (LMP) for the Catawba Indian Nation portion (hereinafter referred to as the Catawba Area) of the Charlotte-Gastonia-Rock Hill NC – SC 1997 8-hour ozone maintenance area (hereinafter referred to as the Charlotte NC-SC 1997 8-hour NAAQS Area). The Charlotte NC-SC 1997 8-hour NAAQS Area is comprised of Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union, and a portion of Iredell County (i.e., Davidson and Coddle Creek Townships) in North Carolina and a portion of York County, South Carolina, which includes the Catawba Area. EPA is finalizing approval of the Catawba Area LMP because it provides for the maintenance of the 1997 8-hour ozone NAAQS within the Catawba Area through the end of the second 10-year portion of the maintenance period. The effect of this action would be to make certain commitments related to maintenance of the 1997 8-hour ozone NAAQS in the Catawba Area federally enforceable as part of the South Carolina SIP.

DATES: This rule is effective [Insert 30 days after date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket Identification No.

EPA-R04-OAR-2020-0677. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jane Spann, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9029. Ms. Spann can also be reached via electronic mail at spann.jane@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Clean Air Act (CAA or Act), EPA is approving the Catawba Area LMP for the 1997 8-hour ozone NAAQS, adopted by DHEC on July 7, 2020, and submitted by DHEC as a revision to the South Carolina SIP under a letter dated July 7, 2020.¹ In 2004, the Charlotte NC-SC 1997 8-hour NAAQS Area, which includes the Catawba Area, was designated as nonattainment for the 1997 8-hour ozone NAAQS. Subsequently, in 2012, after a clean data

¹ EPA received the SIP submission on July 10, 2020.

determination² and EPA's approval of a maintenance plan, the South Carolina portion of the Charlotte NC-SC 1997 8-hour NAAQS Area, which includes the Catawba Area, was redesignated to attainment for the 1997 8-hour ozone NAAQS.

The Catawba Area LMP is designed to maintain the 1997 8-hour ozone NAAQS within the Catawba Area through the end of the second 10-year portion of the maintenance period beyond redesignation. As a general matter, the Catawba Area LMP relies on the same control measures and relevant contingency provisions to maintain the 1997 8-hour ozone NAAQS during the second 10-year portion of the maintenance period as the maintenance plan submitted by DHEC for the first 10-year period.

In a notice of proposed rulemaking (NPRM), published on November 26, 2021 (86 FR 67402), EPA proposed to approve the Catawba Area LMP because the State made a showing, consistent with EPA's prior LMP guidance, that the Charlotte NC-SC 1997 8-hour NAAQS Area's ozone concentrations are well below the 1997 8-hour ozone NAAQS and have been historically stable and that it met the other maintenance plan requirements. The details of South Carolina's submission and the rationale for EPA's action are explained in the November 26, 2021, NPRM. Comments on the November 26, 2021, NPRM were due on or before December 27, 2021. EPA did not receive any comments on the November 26, 2021, NPRM.

II. Final Action

EPA is taking final action to approve the Catawba Area LMP for the 1997 8-hour ozone NAAQS, submitted by DHEC on July 7, 2020, as a revision to the South Carolina SIP.

EPA is approving the Catawba Area LMP because it includes an acceptable update of various elements of the 1997 8-hour ozone NAAQS Maintenance Plan approved by EPA for the first 10-year period and retains the relevant provisions of the SIP. EPA also finds that the Catawba Area qualifies for the LMP option and that therefore the Catawba Area LMP adequately demonstrates maintenance of the 1997 8-hour ozone NAAQS through documentation of monitoring data

² See 77 FR 13493 (March 7, 2012).

showing maximum 1997 8-hour ozone levels well below the NAAQS and continuation of existing control measures. EPA believes the Catawba Area's 1997 8-Hour Ozone LMP to be sufficient to provide for maintenance of the 1997 8-hour ozone NAAQS in the Catawba Area over the second 10-year maintenance period, through 2032, and thereby satisfy the requirements for such a plan under CAA section 175A(b).

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

Because this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law, this action for the State of South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Therefore, this action will not impose substantial direct costs on Tribal governments or preempt Tribal law. The Catawba Indian Nation (CIN) Reservation is located within the boundary of York County, South Carolina. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27-16-120 (Settlement Act), “all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities.” The CIN also retains authority to impose regulations applying higher environmental standards to the Reservation than those imposed by state law or local governing bodies, in accordance with the Settlement Act.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to

publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 18, 2022.

Daniel Blackman,
Regional Administrator,
Region 4.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart PP - South Carolina

2. In §52.2120, amend the table in paragraph (e) by adding the entry “1997 8-hour ozone Maintenance Plan for the Catawba Indian Nation portion of the bi-state Charlotte Area” at the end of the table to read as follows:

§52.2120 Identification of plan.

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(e) * * *

Provision	State effective date	EPA approval date	Explanation
**	**	**	*
1997 8-hour ozone Maintenance Plan for the Catawba Indian Nation portion of the bi-state Charlotte Area	7/7/2020	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	Applicable only to the Catawba Indian Nation Reservation portion within the 1997 8-hour ozone boundary in York County, South Carolina (within the Rock Hill-Fort Mill Area Transportation Study Metropolitan Planning Organization Area).

[FR Doc. 2022-01300 Filed: 1/24/2022 8:45 am; Publication Date: 1/25/2022]